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**JUN 2 4 2004**

**OFFICE OF PETITIONS**

In re Application of	:	
Oettel et al.	:	
Application No. 10/729,487	:	DECISION REFUSING STATUS
Filed: December 5, 2003	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 576B	:	

This is in response to the petition under 37 CFR 1.47(a), filed April 29, 2004. Applicants obtained a two-month extension of time to respond. Therefore, the petition is filed timely.

The petition is dismissed.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 5, 2003, without an executed oath or declaration. Accordingly, on January 16, 2004, the Office mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration and a surcharge for its late filing.

In response, on April 29, 2004, applicants filed the present petition, a request for a two-month extension of time to reply, a declaration signed by 5 out of 6 inventors and a Declaration of Facts of Eva-Maria Cramer and Ute Pilchowski.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicants lack item (2) as set forth above.

As to item (2), applicants failed to submit an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64. The declaration does not identify residence, mailing address or country of citizenship of any of the inventors. The Office notes that the oath or declaration must identify the country of citizenship of each inventor, as well as "[t]he mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor. . . ." 37 CFR 1.63(c)(1). Accordingly, to correct the deficiencies, applicants must submit an oath or declaration in compliance with 37 CFR 1.63 and 1.67, which identifies the entire inventive entity, the correct mailing address and citizenship of each inventor, and is signed by the 5 signing inventors on behalf of Dr. Wildt, the nonsigning inventor.

The \$130.00 petition fee will be charged to Deposit Account No. 19-4675, as authorized.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

By mail:           Mail Stop Petition  
                  Commissioner for Patents  
                  P.O. Box 1450  
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By FAX:           (703) 872-9306  
                  Attn: Office of Petitions

By hand:           U.S. Patent and Trademark Office  
                  220 20<sup>th</sup> Street S.  
                  Customer Window, Mail Stop Petition  
                  Crystal Plaza Two, Lobby, Room 1B03  
                  Arlington, VA 22202

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-5589.

*Christina Tartera Donnell*

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Senior Petitions Attorney  
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